

**NET EQUITY FILINGS**  
**IN RESPONSE TO TRUSTEE'S NET EQUITY MOTION**  
***SIPC v. BLMIS*, Adv. Pro. No. 08-01789 (BRL)**

<b>Docket No.</b>	<b>Name of Objector</b>	<b>Counsel</b>	<b>Summary of Filing</b>	<b>Response</b>
531	Hugh de Blacam	Pro se	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief and Reply Brief.</li> </ul>
535	Anchor Holding, LLC	Johnson, Pope, Bokor, Ruppel & Burns, LLP	<ul style="list-style-type: none"> <li>• Seeks to preserve rights to litigate net equity issue once determination letters are issued to it and its customers.</li> <li>• States that the adjudication of the net equity issue should not be binding upon them.</li> </ul>	<ul style="list-style-type: none"> <li>• The net equity determination is a legal issue presented by the Trustee’s Motion that is intended to apply to all customer claims determinations in this liquidation proceeding, whether or not such claims have been determined. <i>See</i> Trustee’s Reply Brief at p. 1.</li> <li>• <i>See</i> above response.</li> </ul>
536	Phyllis Glick	Pro se	<ul style="list-style-type: none"> <li>• Objects to Trustee’s cash in/cash out approach.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief and Reply Brief.</li> </ul>
546	Cynthia Pattison Germane	Pro se	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>• Requests that she be paid interest from November 8, 2008 until the date upon which her claim is paid.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief and Reply Brief.</li> <li>• Whether a customer is entitled to interest is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id</i>; <i>see also</i></li> </ul>

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				Trustee's Reply Brief, at p. 22.
624	Lawrence R. Velvel	Pro se	<ul style="list-style-type: none"> <li>• "Net equity" should be valued in the amounts shown on the last BLMIS statement.</li> <li>• Customers have legitimate expectations in the securities listed on their last BLMIS statements.</li> <li>• A proceeding under SIPA is different from a normal bankruptcy proceeding under the United States Bankruptcy Code.</li> <li>• Because the securities listed on the last customer statements could be obtained in a fair and orderly market, the Trustee is required to deliver to those securities to BLMIS customers.</li> </ul>	<ul style="list-style-type: none"> <li>• See Trustee's Moving Brief and Reply Brief.</li> <li>• See Trustee's Moving Brief at pp. 37-40; <i>see also</i> Trustee's Reply Brief at pp. 6-11.</li> <li>• See Trustee's Moving Brief at pp. 20-21.</li> <li>• See Trustee's Moving Brief at pp. 43-44.</li> </ul>
685	Lawrence R. Velvel	Pro se	<ul style="list-style-type: none"> <li>• Duplicate filing of Docket No. 624 above.</li> </ul>	<ul style="list-style-type: none"> <li>• See above response (to Docket No. 624).</li> </ul>
686	Ethel Chambers James Chambers	Pro se	<ul style="list-style-type: none"> <li>• Requests that an appreciation rate tied to a conservative United States Government</li> </ul>	<ul style="list-style-type: none"> <li>• Whether a customer is entitled to interest is beyond the scope of the Order Scheduling the Net</li> </ul>

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			security be applied to deposits, adjusted for withdrawals.	Equity Dispute. <i>See id</i> ; <i>see also</i> Trustee's Reply Brief, at p. 22.
716	Sterling Equities Associates	Davis Polk & Wardwell LLP	<ul style="list-style-type: none"> <li>• "Net equity" should be valued in the amounts shown on the last BLMIS statement.</li> <li>• Trustee's position with respect to "net equity" is inconsistent with SIPA and case law, including <i>New Times</i>.</li> <li>• Non-SIPA Ponzi-scheme cases have no relevance to proceedings governed by SIPA and the Bankruptcy Code.</li> <li>• Payment to a customer of the \$500,000 SIPC advance does not reduce another customer's distribution because the funds are provided by SIPC.</li> <li>• Trustee has no power to avoid payments to innocent customers.</li> <li>• Bankruptcy Code Section 546(e) limits the Trustee's</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee's Moving Brief and Reply Brief.</li> <li>• <i>See</i> Trustee's Moving Brief at pp. 33-50; <i>see also</i> Trustee's Reply Brief at pp. 4-11.</li> <li>• <i>See</i> Trustee's Reply Brief at pp. 2-11.</li> <li>• <i>See</i> Trustee's Reply Brief at pp. 19-21.</li> <li>• <i>See</i> Trustee's Moving Brief at pp. 33-35, 46-49; <i>see also</i> Trustee's Reply Brief at pp. 11-17.</li> <li>• <i>See</i> Trustee's Reply Brief at pp. 14-17.</li> </ul>

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			avoidance powers to Section 548(a)(1)(A).	
720	Sterling Equities Associates	Davis Polk & Wardwell LLP	<ul style="list-style-type: none"> <li>Declaration of Arthur Friedman filed by Karen E. Wagner on behalf of Sterling Equities Associates.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required at this time. <i>See</i> Trustee's Reply Brief at pp. 1-2.</li> </ul>
728	Josef Mittelman	Pro se	<ul style="list-style-type: none"> <li>"Net equity" should be valued in the amounts shown on the last BLMIS statement.</li> <li>Bankruptcy Code Section 546(e) limits the Trustee's avoidance powers.</li> <li>Customers are entitled to prejudgment interest.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee's Moving Brief and Reply Brief.</li> <li><i>See</i> Trustee's Reply Brief at pp. 14-17.</li> <li>Whether a customer is entitled to interest is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id</i>; <i>see also</i> Trustee's Reply Brief, at p. 22.</li> </ul>
729	Just Empire LLC	Josef Mittleman	<ul style="list-style-type: none"> <li><i>See</i> above summary (Docket No. 728).</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee's Moving Brief and Reply Brief.</li> </ul>
731	Herbert A. Medetsky	Pro se	<ul style="list-style-type: none"> <li>Customer does not object at this time but reserves his rights to litigate should the Court issue a ruling that the Trustee's definition of "net</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> </ul>

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			equity” is incorrect.	
742	David Silver	Morrison Cohen LLP	<ul style="list-style-type: none"> <li>Customer seeks to have the Court confirm that personal accounts held directly by a customer and individual retirement accounts for the benefit of the same customer are treated as being held by separate customers for purposes of determining net equity.</li> </ul>	<ul style="list-style-type: none"> <li>The treatment of multiple accounts is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id.</i></li> </ul>
747	Donald G. Rynne	Gibbons P.C.	<ul style="list-style-type: none"> <li>“Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>Customers have legitimate expectations in the securities listed on their last BLMIS statements.</li> <li>Customer is entitled to interest on his funds deposited with BLMIS.</li> <li>Trustee cannot seek to avoid transfers made outside of the statute of limitations period for avoidance actions under the Bankruptcy Code and</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee’s Moving Brief and Reply Brief.</li> <li><i>See</i> Trustee’s Moving Brief at pp. 37-40; <i>see also</i> Trustee’s Reply Brief at pp. 6-11.</li> <li>Whether a customer is entitled to interest is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id</i>; <i>see also</i> Trustee’s Reply Brief, at p. 22.</li> <li><i>See</i> Trustee’s Reply Brief at p. 14.</li> </ul>

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			New York law.	
749	Edith A. Schur Michael Schur	Bernfeld, DeMatteo & Bernfeld LLP	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>• Trustee’s position with respect to “net equity” is inconsistent with SIPA and case law, including <i>New Times</i>.</li> <li>• By virtue of positions taken previously by SIPC and former trustees, the Trustee is judicially estopped from taking the position that he has with respect to “net equity.”</li> </ul>	<ul style="list-style-type: none"> <li>• See Trustee’s Moving Brief and Reply Brief.</li> <li>• See Trustee’s Moving Brief at pp. 33-50; <i>see also</i> Trustee’s Reply Brief at pp. 4-11.</li> <li>• See Trustee’s Reply Brief at p. 9.</li> </ul>
752	Michael Mathias Stacey Mathias	Pro se	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li>• See Trustee’s Moving Brief and Reply Brief.</li> </ul>
753	Jason Mathias	Pro se	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li>• See Trustee’s Moving Brief and Reply Brief.</li> </ul>
754	Shawn Matthias	Pro se	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li>• See Trustee’s Moving Brief and Reply Brief.</li> </ul>
755	Maureen Ebel	Phillips Nizer LLP	<ul style="list-style-type: none"> <li>• “Net equity” should be</li> </ul>	<ul style="list-style-type: none"> <li>• See Trustee’s Moving Brief and</li> </ul>

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	Diane Peskin Roger Peskin, et al.		<p>valued in the amounts shown on the last BLMIS statement.</p> <ul style="list-style-type: none"> <li>• Trustee's position with respect to "net equity" is inconsistent with SIPA and case law, including <i>New Times</i>.</li> <li>• Customers have legitimate expectations in the securities listed on their last BLMIS statements.</li> <li>• Customer is entitled to interest on his funds deposited with BLMIS.</li> <li>• Trustee cannot seek to avoid transfers made outside of the statute of limitations period for avoidance actions under the Bankruptcy Code and New York law.</li> <li>• Non-SIPA Ponzi-scheme cases have no relevance to proceedings governed by SIPA and the Bankruptcy Code.</li> </ul>	<p>Reply Brief.</p> <ul style="list-style-type: none"> <li>• <i>See</i> Trustee's Moving Brief at pp. 33-50; <i>see also</i> Trustee's Reply Brief at pp. 4-11.</li> <li>• <i>See</i> Trustee's Moving Brief at pp. 37-40; <i>see also</i> Trustee's Reply Brief at pp. 6-11.</li> <li>• Whether a customer is entitled to interest is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id</i>; <i>see also</i> Trustee's Reply Brief, at p. 22.</li> <li>• <i>See</i> Trustee's Reply Brief at p. 14.</li> <li>• <i>See</i> Trustee's Reply Brief at pp. 2-11.</li> </ul>
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			<ul style="list-style-type: none"> <li>• By virtue of positions taken previously by SIPC and former trustees, the Trustee is judicially estopped from taking the position that he has with respect to “net equity.”</li> <li>• Trustee’s application of “net equity” contravenes various federal and state laws, including the United States Tax Code.</li> <li>• Trustee has no power to avoid payments to innocent customers.</li> <li>• Bankruptcy Code Section 546(e) limits the Trustee’s avoidance powers to Section 548(a)(1)(A).</li> <li>• There is no evidence that the fraud began before 1993, and as such, the Trustee cannot net out deposits and withdrawals prior to that date.</li> <li>• The trades set forth on the last BLMIS customer statement are not void as</li> </ul>	<ul style="list-style-type: none"> <li>• See Trustee’s Reply Brief at p. 9.</li> <li>• See Trustee’s Reply Brief at pp. 21-22.</li> <li>• See Trustee’s Moving Brief at pp. 33-35, 46-49; <i>see also</i> Trustee’s Reply Brief at pp. 11-17.</li> <li>• See Trustee’s Reply Brief at pp. 14-17.</li> <li>• See Trustee’s Reply Brief at pp. 22-23.</li> <li>• See Trustee’s Moving Brief at p. 48.</li> </ul>
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			<p>illegal contracts.</p> <ul style="list-style-type: none"> <li>Customers are not liable for Madoff’s fraud because the fraud was outside the scope of his agency.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee’s Moving Brief at pp. 48-49.</li> </ul>
761	Maureen Ebel Diane Peskin Roger Peskin, et al.	Phillips Nizer LLP	<ul style="list-style-type: none"> <li>Declaration of Helen Davis Chaitman in Opposition to Trustee’s Motion for an Order Approving the Trustee’s Re-Definition of “Net Equity” Under the Securities Investor Protection Act.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> </ul>
765	Carl J. Shapiro and Associated Entities (“Shapiro”)	Shearman & Sterling LLP	<ul style="list-style-type: none"> <li>“Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>Trustee’s position with respect to “net equity” is inconsistent with SIPA and case law, including <i>New Times</i>.</li> <li>Because Shapiro’s funds were not invested in the split-strike conversion strategy, the value of the securities positions on his statements reflected long-term growth of real securities.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee’s Moving Brief and Reply Brief.</li> <li><i>See</i> Trustee’s Moving Brief at pp. 33-50; <i>see also</i> Trustee’s Reply Brief at pp. 4-11.</li> <li><i>See</i> Trustee’s Reply Brief at pp. 1-2.</li> </ul>

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			Thus, his net equity should be valued as of his last account statements.	
766	Kenneth M. Krys Christopher D. Stride Liquidators for Fairfield Sentry Limited	Brown Rudnick LLP	<ul style="list-style-type: none"> <li>Joins in all oppositions to Trustee's motion.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> </ul>
767	Carl J. Shapiro and Associated Entities	Shearman & Sterling LLP	<ul style="list-style-type: none"> <li>Declaration of Liane Willis in Support of Memorandum of Carl J. Shapiro and Associated Entities in Opposition to Trustee's Net Equity Motion.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required at this time. <i>See</i> Trustee's Reply Brief at pp. 1-2.</li> </ul>
769	Ellen G. Victor	Dewey & LeBoeuf LLP	<ul style="list-style-type: none"> <li>Joins in opposition of Sterling Equities Associates to Trustee's motion.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> </ul>
770	Wachovia Bank, National Association	McCarter & English, LLP	<ul style="list-style-type: none"> <li>"Net equity" should be valued in the amounts shown on the last BLMIS statement.</li> <li>Customers have legitimate expectations in the securities listed on their last BLMIS statements.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee's Moving Brief and Reply Brief.</li> <li><i>See</i> Trustee's Moving Brief at pp. 37-40; <i>see also</i> Trustee's Reply Brief at pp. 6-11.</li> </ul>
771	SRZ Claimants	Schulte Roth & Zabel	<ul style="list-style-type: none"> <li>"Net equity" should be valued in the amounts shown</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee's Moving Brief and Reply Brief.</li> </ul>

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			<p>on the last BLMIS statements.</p> <ul style="list-style-type: none"> <li>• Customers have legitimate expectations in the securities listed on their last BLMIS statements.</li> <li>• Trustee’s position with respect to “net equity” is inconsistent with SIPA and case law, including <i>New Times</i>.</li> <li>• Non-SIPA Ponzi-scheme cases have no relevance to proceedings governed by SIPA and the Bankruptcy Code.</li> <li>• Claimants qualify as “customers” under SIPA because they meet the “ordinary course” requirement.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief at pp. 37-40; <i>see also</i> Trustee’s Reply Brief at pp. 6-11.</li> <li>• <i>See</i> Trustee’s Moving Brief at pp. 33-50; <i>see also</i> Trustee’s Reply Brief at pp. 4-11.</li> <li>• <i>See</i> Trustee’s Reply Brief at pp. 2-11.</li> <li>• <i>See</i> Trustee’s Moving Brief at pp. 45-46.</li> </ul>
772	Magnify, Inc.	Herrick, Feinstein LLP	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>• There is no evidence that the fraud began before 1993, and</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief and Reply Brief.</li> <li>• <i>See</i> Trustee’s Reply Brief at pp. 22-23.</li> </ul>

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			<p>as such, the Trustee cannot net out deposits and withdrawals prior to that date.</p> <ul style="list-style-type: none"> <li>Submits that this specific issue should not be resolved on this motion, but identifies issue and preserves rights in that respect for future determinations on the same.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> </ul>
774	Irving J. Pinto Amy Lome Pinto	Bruce S. Schaeffer	<ul style="list-style-type: none"> <li>"Net equity" should be valued in the amounts shown on the last BLMIS statement.</li> <li>"Net equity" calculation should not exclude direct inter-account transfers.</li> <li>Trustee's "net equity" calculation is inconsistent with Revenue Procedure 2009-20.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee's Moving Brief and Reply Brief.</li> <li>Treatment of inter-account transfers is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id.</i></li> <li><i>See</i> Trustee's Reply Brief at pp. 21-22.</li> </ul>
779	Lawrence Elins Malibu Trading and Investing, L.P.	Kleinberg, Kaplan, Wolff & Cohen, P.C.	<ul style="list-style-type: none"> <li>Trustee's motion seeks binding determinations on issues broader than that permitted by the Scheduling Order, i.e. determinations of customer claims listed on Exhibit A to the Motion to</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> </ul>

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			<p>the extent such determinations relate to Trustee’s interpretation of “net equity.”</p> <ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>• The Looby Declaration should be disregarded because the assertions contained therein are not known personally by Mr. Looby, and is composed of inadmissible hearsay.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief and Reply Brief.</li> <li>• The evidence relied upon by Mr. Looby are business records which were made in the regular and customary course of business, and thus well within the hearsay exception of Fed. R. Evid. 803(6). Moreover, the facts and data relied upon by Mr. Looby in making his declaration are those reasonably relied upon by experts in the field and are thus protected under Fed. R. Evid. 703.</li> </ul>
784	Sonnenschein Investors	Sonnenschein Nath & Rosenthal LLP	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>• Customers have legitimate expectations in the securities listed on their last BLMIS statements.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief and Reply Brief.</li> <li>• <i>See</i> Trustee’s Moving Brief at pp. 37-40; <i>see also</i> Trustee’s Reply Brief at pp. 6-11.</li> </ul>

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			<ul style="list-style-type: none"> <li>• The legislative history of SIPA supports allowance of claims based on the last BLMIS statement.</li> <li>• Trustee’s position with respect to “net equity” is inconsistent with SIPA and case law, including <i>New Times</i>.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> SIPC’s Reply Brief at pp. 7-12.</li> <li>• <i>See</i> Trustee’s Moving Brief at pp. 33-50; <i>see also</i> Trustee’s Reply Brief at pp. 4-11.</li> </ul>
785	Martin Rappaport, et al.	Milberg LLP Seeger Weiss LLP	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>• Customers have legitimate expectations in the securities listed on their last BLMIS statements.</li> <li>• Innocent investors are entitled to claim their principal plus interest.</li> <li>• The legislative history of SIPA supports allowance of claims based on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief and Reply Brief.</li> <li>• <i>See</i> Trustee’s Moving Brief at pp. 37-40; <i>see also</i> Trustee’s Reply Brief at pp. 6-11.</li> <li>• Whether a customer is entitled to interest is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id</i>; <i>see also</i> Trustee’s Reply Brief, at p. 22.</li> <li>• <i>See</i> SIPC’s Reply Brief at pp. 7-12.</li> </ul>

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			<ul style="list-style-type: none"> <li>• Customers are not liable for Madoff's fraud because the fraud was outside the scope of his agency.</li> <li>• Trustee's avoidance powers do not support the cash in/cash out approach.</li> <li>• Trustee must meet the specific substantive and procedural requirements of the avoidance provisions of the Bankruptcy Code with regard to each customer and with regard to each transaction, and customers are entitled to present defenses.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee's Moving Brief at pp. 48-49; <i>see also</i> SIPC's Reply Brief at pp. 21-27.</li> <li>• <i>See</i> Trustee's Moving Brief at pp. 33-35, 46-49; <i>see also</i> Trustee's Reply Brief at pp. 11-17.</li> <li>• <i>See</i> Trustee's Reply Brief at pp. 1-2, 11-17; <i>see also</i> SIPC's Reply Brief at pp. 27-33.</li> </ul>
790	Jeffrey A. Berman Russell DeLucia Ellenjoy Fields Jane L. O'Connor as Trustee of the Jane O'Connor Living Trust Michael C. Lesser Norman E. Lesser 11/97 Rev. Trust Paula E. Lesser 11/97 Rev. Trust	Goodwin Proctor LLP	<ul style="list-style-type: none"> <li>• Statement (Verified Statement Pursuant to Bankruptcy Rule 2109 of Goodwin Proctor LLP).</li> </ul>	<ul style="list-style-type: none"> <li>• No response is required at this time. <i>See</i> Trustee's Reply Brief at pp. 1-2.</li> </ul>

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796	<p>Jeffrey A. Berman  Russell DeLucia  Ellenjoy Fields  Jane L. O’Connor as  Trustee of the Jane  O’Connor Living Trust  Michael C. Lesser  Norman E. Lesser  11/97 Rev. Trust  Paula E. Lesser 11/97  Rev. Trust</p>	<p>Goodwin Proctor  LLP</p>	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>• Customers have legitimate expectations in the securities listed on their last BLMIS statements.</li> <li>• The legislative history of SIPA supports allowance of claims based on the last BLMIS statement.</li> <li>• Trustee’s position with respect to “net equity” is inconsistent with SIPA and case law, including <i>New Times</i>.</li> <li>• Non-SIPA Ponzi-scheme cases did not deal with real securities that could be valued as of the Filing Date and are thus inapposite.</li> <li>• <i>Old Naples</i> does not support the Trustee’s position.</li> <li>• The fact that other records, in addition to the account statements, show that there</li> </ul>	<ul style="list-style-type: none"> <li>• See Trustee’s Moving Brief and Reply Brief.</li> <li>• See Trustee’s Moving Brief at pp. 37-40; <i>see also</i> Trustee’s Reply Brief at pp. 6-11.</li> <li>• See SIPC’s Reply Brief at pp. 7-12.</li> <li>• See Trustee’s Moving Brief at pp. 33-50; <i>see also</i> Trustee’s Reply Brief at pp. 4-11.</li> <li>• See Trustee’s Reply Brief at pp. 2-11.</li> <li>• See Trustee’s Reply Brief at p. 6.</li> <li>• See Trustee’s Moving Brief at pp. 44-45; <i>see also</i> Trustee’s Reply Brief at pp. 5-6.</li> </ul>
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			<p>were no securities transactions does not mean that customers cannot show the obligations owed to them by BLMIS.</p> <ul style="list-style-type: none"> <li>• “Ordinary course” argument is not relevant to the determination of “net equity.”</li> <li>• “Net Equity” must be determined before any transfers can be deemed fraudulent. Any transfer up to value of net equity is not fraudulent because it is for “value.”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief at pp. 45-46.</li> <li>• <i>See</i> Trustee’s Moving Brief at pp. 46-49; <i>see also</i> Trustee’s Reply Brief at pp. 12-14.</li> </ul>
803	Mary Albanese Brow Family Partnership Allan Goldstein Laurence Kaye Suzanne Kaye Rose Less Gordon Bennett	Lax & Neville, LLP	<ul style="list-style-type: none"> <li>• “Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>• Customers have legitimate expectations in the securities listed on their last BLMIS statements.</li> <li>• The legislative history of SIPA supports allowance of claims based on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief and Reply Brief.</li> <li>• <i>See</i> Trustee’s Moving Brief at pp. 37-40; <i>see also</i> Trustee’s Reply Brief at pp. 6-11.</li> <li>• <i>See</i> SIPC’s Reply Brief at pp. 7-12.</li> </ul>

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			<ul style="list-style-type: none"> <li>• Trustee's position with respect to "net equity" is inconsistent with SIPA and case law, including <i>New Times</i>.</li> <li>• Non-SIPA Ponzi-scheme cases did not deal with real securities that could be valued as of the Filing Date and are thus inapposite.</li> <li>• The SIPC advance is made prior to the <i>pro rata</i> distribution from the fund of customer property.</li> <li>• Trustee's avoidance powers do not support the cash in/cash out approach.</li> <li>• Trustee's request to expunge the objections should be denied because the determination letters are inadequate.</li> </ul>	<ul style="list-style-type: none"> <li>• See Trustee's Moving Brief at pp. 33-50; <i>see also</i> Trustee's Reply Brief at pp. 4-11.</li> <li>• See Trustee's Reply Brief at pp. 2-11.</li> <li>• See Trustee's Reply Brief at pp. 19-21.</li> <li>• See Trustee's Moving Brief at pp. 33-35, 46-49; <i>see also</i> Trustee's Reply Brief at pp. 11-17.</li> <li>• The form of the determination letter was approved by the Court in the Claims Procedures Order, at p. 2.</li> </ul>
804	Mary Albanese Brow Family Partnership Allan Goldstein Laurence Kaye	Lax & Neville, LLP	<ul style="list-style-type: none"> <li>• Declaration of Brian Maddox in Support of Rose Less's Memorandum of Law In Opposition to Trustee's Motion for an Order</li> </ul>	<ul style="list-style-type: none"> <li>• No response is required.</li> </ul>

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	Suzanne Kaye Rose Less Gordon Bennett		Upholding Trustee's Determination Denying Customers Claims for Amounts Listed on Last Statement Regarding Net Equity.	
805	Norman Plotnick Yetta Goldman	Cole, Schotz, Meisel, Forman & Leonard, P.A.	<ul style="list-style-type: none"> <li>Declaration of Norman Plotnick and Yetta Goldman filed by Brian Neville on behalf of Rose Less.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required at this time. <i>See</i> Trustee's Reply Brief at pp. 1-2.</li> </ul>
59	Lee Mellis Lee Mellis (IRA) Jean Pomerantz T.O.D. Bonita Savitt	Stanley Dale Cohen	<ul style="list-style-type: none"> <li>"Net equity" should be valued in the amounts shown on the last BLMIS statement.</li> <li>Trustee's "net equity" position is inequitable, especially where investors made mandatory withdrawals for tax purposes.</li> <li>Trustee's position does not take into account the time value of money.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee's Moving Brief and Reply Brief.</li> <li><i>See</i> Trustee's Moving Brief at 52-53; <i>see also</i> Trustee's Reply Brief at pp. 17-19.</li> <li>Whether a customer is entitled to the time value of money is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id</i>; <i>see also</i> Trustee's Reply Brief at p. 22.</li> </ul>
820	Gunther Unflat Margaret Unflat	Pro se	<ul style="list-style-type: none"> <li>"Net equity" should be valued in the amounts shown on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee's Moving Brief and Reply Brief.</li> </ul>

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822	Lillian Gilden	Pro se	<ul style="list-style-type: none"> <li>Rejects contention that “net equity” should be valued in the amounts shown on the last BLMIS statement, even though she feels that that approach would benefit her personally.</li> <li>Proposes a case-by-case determination of the merits and validity of each claim, and argues against a single rule governing all claims.</li> <li>Because her claimed balance amount is under \$500,000, distribution to her would not negatively impact any other customer because it would come from SIPC.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> <li>SIPA mandates the manner in which the Trustee determines claims.</li> <li><i>See</i> Trustee’s Reply Brief at pp. 19-21.</li> </ul>
827	Marshall W. Krause	Pro se	<ul style="list-style-type: none"> <li>“Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> <li>Trustee’s “net equity” calculation is inconsistent with Revenue Ruling 2009-09.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee’s Moving Brief and Reply Brief.</li> <li><i>See</i> Trustee’s Reply Brief at pp. 21-22.</li> </ul>
859	Joseph M. Hughart	Pro se	<ul style="list-style-type: none"> <li>“Net equity” should be valued in the amounts shown</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee’s Moving Brief and Reply Brief.</li> </ul>

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			on the last BLMIS statement.	
921	Herbert Gamberg Ruth Gamberg	Pro se	<ul style="list-style-type: none"> <li>“Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee’s Moving Brief and Reply Brief.</li> </ul>
926	Arlene Perlis	Pro se	<ul style="list-style-type: none"> <li>“Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee’s Moving Brief and Reply Brief.</li> </ul>
959	Marvin Katkin	Pro se	<ul style="list-style-type: none"> <li>“Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee’s Moving Brief and Reply Brief.</li> </ul>
973	Yolanda Greer	Pro se	<ul style="list-style-type: none"> <li>“Net equity” should be valued in the amounts shown on the last BLMIS statement.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee’s Moving Brief and Reply Brief.</li> </ul>
1041	Simon Jacobs	Pro se	<ul style="list-style-type: none"> <li>Supports Trustee’s position that “net equity” should be based on cash in/cash out.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> </ul>
1051	Optimal Strategic U.S. Equity Limited Optimal Arbitrage Limited	Cravath, Swaine & Moore LLP	<ul style="list-style-type: none"> <li>Supports Trustee’s position that “net equity” should be based on cash in/cash out.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> </ul>
1052	United States Securities & Exchange Commission (“SEC”)		<ul style="list-style-type: none"> <li>Supports Trustee’s position that “net equity” should be based on cash in/cash out.</li> <li>Although the SEC argues that</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> <li>No response is required.</li> </ul>

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			claims should be calculated using “constant dollars,” it recognizes that briefing at this stage is limited to the net equity determination.	
1095	Martin Rappaport, et al.	Milberg LLP Seeger Weiss LLP	<ul style="list-style-type: none"> <li>• The definition of “net equity” includes no reference to the “books and records of the debtor” as a basis for calculating customer claims.</li> <li>• It is internally inconsistent to argue that the Series 500 Rules determine the type of claim a customer has, but not the amount of that claim.</li> <li>• Optimal’s attempt to protect its settlement has no relevance to the “net equity” dispute.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Reply Brief at pp. 5-6.</li> <li>• <i>See</i> Trustee’s Reply Brief at pp. 6-7.</li> <li>• No response is required.</li> </ul>
1096	Diane Peskin Roger Peskin Maureen Ebel	Phillips Nizer LLP	<ul style="list-style-type: none"> <li>• SIPA does not permit a “constant dollar” approach.</li> <li>• The payment of the SIPC advance is and the</li> </ul>	<ul style="list-style-type: none"> <li>• Whether SIPA permits use of a “constant dollar” approach is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id</i>; <i>see also</i> Trustee’s Reply Brief, at p. 22.</li> <li>• <i>See</i> Trustee’s Reply Brief at pp. 3-4, 19-21.</li> </ul>

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			distribution from the fund of customer property are separate payment mechanisms that are not dependent upon one another.	
1098	Sterling Equities Associates	Davis Polk & Wardwell LLP	<ul style="list-style-type: none"> <li>• Payment of the SIPC advance to one customer does not impact any other customer.</li> <li>• Trustee has no power to avoid transfers to innocent customers.</li> <li>• Because liquidation value of securities can be determined, the securities shown on the last BLMIS customer statement are not analogous to the fictitious securities in <i>New Times</i>.</li> <li>• “Net equity” must be determined from the customer’s perspective, rather than the broker’s perspective.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Reply Brief at pp. 19-21.</li> <li>• <i>See</i> Trustee’s Moving Brief at pp. 33-35, 46-49; <i>see also</i> Trustee’s Reply Brief at pp. 11-17.</li> <li>• <i>See</i> Trustee’s Moving Brief at 9-12, 40-44; <i>see also</i> Trustee’s Reply Brief at pp. 5-6; Looby Declaration.</li> <li>• <i>See</i> Trustee’s Reply Brief at pp. 14-17.</li> </ul>
1100	Anthony Fusco	Pro se	<ul style="list-style-type: none"> <li>• Disagrees with Trustee’s definition of “net equity.”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Moving Brief and Reply Brief.</li> </ul>
1104	SRZ Claimants	Schulte Roth & Zabel LLP	<ul style="list-style-type: none"> <li>• The definition of “net equity”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Reply Brief at pp.</li> </ul>

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			<p>includes no reference to the “books and records of the debtor” as a basis for calculating customer claims.</p> <ul style="list-style-type: none"> <li>• SIPA requires focus on the customer’s expectations, rather than the transactional reality.</li> <li>• Because liquidation value of securities can be determined, the securities shown on the last BLMIS customer statement are not analogous to the fictitious securities in <i>New Times</i>.</li> <li>• SIPA does not permit a “constant dollar” approach.</li> </ul>	<p>5-6.</p> <ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Reply Brief at pp. 6-11.</li> <li>• <i>See</i> Trustee’s Moving Brief at pp. 9-12, 40-44; <i>see also</i> Trustee’s Reply Brief at pp. 5-6; Looby Declaration.</li> <li>• Whether SIPA permits use of a “constant dollar” approach is beyond the scope of the Order Scheduling the Net Equity Dispute. <i>See id</i>; <i>see also</i> Trustee’s Reply Brief, at pp. 22.</li> </ul>
1105	Mary Albanese, et al.	Lax & Neville, LLP	<ul style="list-style-type: none"> <li>• SIPA requires focus on the customer’s expectations, rather than the transactional reality.</li> <li>• Payment of the SIPC advance to one customer does not</li> </ul>	<ul style="list-style-type: none"> <li>• <i>See</i> Trustee’s Reply Brief at pp. 6-11.</li> <li>• <i>See</i> Trustee’s Reply Brief at pp. 19-21.</li> </ul>



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			impact any other customer.	
1106	Mary Albanese, et al.	Lax & Neville, LLP	<ul style="list-style-type: none"> <li>Declaration of Brian Maddox in Support of Lax &amp; Neville, LLP's Reply Memorandum in Opposition to Trustee's Motion for an Order Upholding Trustee's Determination Denying Customer Claims' Relating To Net Equity.</li> </ul>	<ul style="list-style-type: none"> <li>No response is required.</li> </ul>
1109	Edith Schur Michael Schur	Bernfeld, DeMatteo & Bernfeld LLP	<ul style="list-style-type: none"> <li>The profits derived from the market making and proprietary trading operations of BLMIS were not "fictitious" and should be allocated to the customers.</li> <li>Discusses the SIPC advance and SIPC's subrogation rights.</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee's Reply Brief at p. 2.</li> <li><i>See</i> Trustee's Reply Brief at pp. 19-21; <i>see also</i> SIPC's Reply Brief at pp. 14-21.</li> </ul>
50 <sup>1</sup>	Alan J. Winters	Pro se	<ul style="list-style-type: none"> <li>"Net equity" should be valued in the amounts shown on the last BLMIS statement.</li> <li>Payment of the SIPC advance to one customer does not</li> </ul>	<ul style="list-style-type: none"> <li><i>See</i> Trustee's Moving Brief and Reply Brief.</li> <li><i>See</i> Trustee's Reply Brief at pp. 19-21.</li> </ul>

<sup>1</sup> This objection was filed in the adversary proceeding captioned *Peskin, et al. v. Picard*, 09-1272 (Bankr. S.D.N.Y.) (BRL). The Trustee believes that it should have been filed in the main bankruptcy proceeding as it specifically addresses net equity and is accordingly included here.

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			<p>impact any other customer.</p> <ul style="list-style-type: none"><li>• Customers have legitimate expectations to the securities listed on their last BLMIS statements.</li></ul>	<ul style="list-style-type: none"><li>• <i>See</i> Trustee's Moving Brief at pp. 37-40; <i>see also</i> Trustee's Reply Brief at pp. 6-11.</li></ul>
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